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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B-11]

Final Priority; National Institute on Disability and Rehabilitation Research--Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for the Disability and Rehabilitation Research Projects and Centers Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR).

Specifically, we announce a priority for a Rehabilitation Research and Training Center (RRTC) on Community Living Policy. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve outcomes among individuals with disabilities.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

## Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of services authorized under, the Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at:

[www.ed.gov/rschstat/research/pubs/res-program.html#RRTC](http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC).

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority in the Federal Register on May 15, 2013 (78 FR 28543). That notice contained background information and our reasons for proposing the priority.

There are differences between the proposed priority and the final priority as discussed under Analysis of Comments and Changes.

Public Comment: In response to our invitation in the notice of proposed priority, two parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the proposed priority follows.

Comment: One commenter noted that there are few Federal and State efforts to collect data on long-term services and supports for individuals with disabilities, relative to data collection efforts that focus on acute health care services. In this context, the commenter recommended that NIDRR expand paragraph (a) to require the RRTC to work with NIDRR and the Administration for Community Living to propose and develop new data resources, such as additional measures to be included in existing surveys, or to create new data sets and surveys.

Discussion: NIDRR agrees with the commenter that additional data resources are needed in the area of long-

term services and supports. However, we also recognize that the RRTC budget, the limited availability of other Federal and State resources, and the grantee's lack of authority to shape government data collection practices, are likely to limit the RRTC's ability to propose and develop additional data resources. To help move the field toward the development of better data resources in this area, NIDRR is modifying the priority to require the RRTC to identify gaps in available data and informational resources and to recommend strategies to fill these gaps.

Changes: NIDRR has added a third task to paragraph (a) that requires the RRTC to identify gaps in available data and informational resources and to identify strategies to fill these gaps.

Comment: One commenter noted that paragraph (f)(ii) is focused on the provision of training to improve services to individuals who are aging with long-term physical disabilities, while all other sections of the priority state the target population more broadly as individuals with disabilities. This commenter recommends modifying the language in paragraph (f)(ii) to reflect the broad target population of individuals with disabilities. Similarly, a second commenter suggested that the priority clearly state

that the new RRTC is to address the needs of people with disabilities of all ages.

Discussion: NIDRR agrees with the commenters and intends this RRTC to focus broadly on long-term services and supports for individuals with disabilities of all ages.

Changes: NIDRR has modified paragraph (f)(ii) to describe the target population more broadly as individuals with disabilities. To address the second commenter's point, we have modified the second sentence of the priority's opening paragraph to state that the target population is individuals with disabilities of all ages.

Comment: One commenter recommended that NIDRR modify paragraph (f)(ii) to specifically mention providers of long-term services and supports as targets of training to be provided by the RRTC.

Discussion: Paragraph (f)(ii) allows applicants to propose training to a broad variety of disability service providers, which may include providers of long-term services and supports. Nothing in the priority precludes applicants from proposing to provide training to providers of long-term services and supports. However, we do not want to preclude applications from organizations that are not planning to provide training to these providers. The

peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter recommended that NIDRR require the RRTC to include providers of home- and community-based long-term services and supports, and advocates for people with disabilities, as integral members of the RRTC staff.

Discussion: Paragraph (c) requires the RRTC to identify and involve key stakeholders in its work, including individuals with disabilities and their families and service providers. Further, nothing in the priority precludes applicants from proposing to include providers of home- and community-based long-term services and supports, or disability advocates as members of their RRTC staff. However, we do not want to preclude applications from organizations that are not planning to include these specific stakeholders as part of their proposed staff. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: As a means of encouraging innovation and competitive pricing in the area of community living policy, one commenter suggested that the priority incorporate

performance-based acquisition principles outlined in the May 22, 2007, Office of Management and Budget Memorandum for Chief Acquisition Officers and Senior Procurement Executives, titled "Using Performance-Based Acquisition to Meet Program Needs - Performance Goals, Guidance, and Training."

Discussion: Nothing in the priority precludes applicants from proposing to use performance-based acquisition principles in designing an approach to this priority. NIDRR does not, however, have a basis for requiring that all applicants do this. The peer review process will determine the merits of each proposal.

Change: None.

FINAL PRIORITY:

Background:

This final priority is in concert with NIDRR's Long-Range Plan for Fiscal Years 2013-2017 (Plan). The Plan, which was published in the Federal Register on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site:

[www.ed.gov/about/offices/list/opers/nidrr/policy.html](http://www.ed.gov/about/offices/list/opers/nidrr/policy.html).

Through the implementation of the Plan, NIDRR seeks to improve the health and functioning, employment, and



community living and participation of individuals with disabilities through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disability.

Priority--RRTC on Community Living Policy.

The Assistant Secretary for Special Education and Rehabilitative Services, in collaboration with the Administration on Community Living (ACL), establishes a priority for an RRTC on Community Living Policy. The RRTC will engage in research, statistical analyses and modeling, knowledge translation, development of informational products, and dissemination to contribute to increased access to, and improved quality of, long-term services and supports (LTSS) for individuals with disabilities of all ages. The RRTC's work is intended to inform the design, implementation, and continuous improvement of Federal and State policies and programs related to LTSS for individuals with disabilities. The RRTC will identify and develop

information for individuals with disabilities and their family members to guide their informed choice of community service and support options that best meet their needs.

The RRTC must be designed to contribute to improved community living and participation outcomes of individuals with disabilities. The RRTC must contribute to these outcomes by:

(a) Establishing a long-term research plan related to community living policy. This plan, once implemented, must contribute relevant and high-quality data and information that will serve as an empirical foundation for improving community living policies and programs for individuals with disabilities. This task includes:

(i) Developing and prioritizing a list of research questions and evaluation topics that, when addressed, will lead to research-based information that can be used to improve community living policies, programs, and outcomes;

(ii) Working with NIDRR and ACL to identify relevant data sets and informational resources that can be analyzed to address the questions and topics in the research plan; and

(iii) Working with NIDRR and ACL to identify gaps in data and information resources that are available to

address the questions and topics in the research plan and to identify strategies to fill those gaps.

(b) Conducting research and research syntheses to identify and evaluate promising practices that States have used and could adopt as part of their State systems for the provision of LTSS. This task includes:

(i) Identifying components of national or State standards for "model" LTSS State systems; and

(ii) Identifying and assessing methods for monitoring, tracking, and evaluating States' LTSS systems.

(c) Identifying and involving key stakeholders in the research and research planning activities conducted under paragraphs (a) and (b) to maximize the relevance and usefulness of the research products being developed. Stakeholders must include, but are not limited to, individuals with disabilities and their families, national, State, and local-level policymakers, service providers, and relevant researchers in the field of disability and rehabilitation research.

(d) Identifying, evaluating, and disseminating accessible information at the national, State, and provider levels on topics of importance to the development and implementation of high-quality community living policies

and programs. These topics include, but are not limited to: transitions from fee-for-service to integrated/managed LTSS systems and associated outcomes and costs; transitions from agency-directed to consumer-directed services and associated outcomes and costs; costs and benefits of various supports for individuals and families, such as care coordination, respite care, and remote monitoring; and other topics to be determined in collaboration with key stakeholders and NIDRR and ACL representatives.

(e) Establishing a network of technical assistance providers and advocacy entities to assist in synthesizing and disseminating information related to implementing high-quality community living policies, programs, and practices for individuals with disabilities. Network members may include, but are not limited to: the Americans with Disabilities Act National Network Regional Centers, the Aging and Disability Resource Centers, the Governor's Planning Councils on Developmental Disabilities, the Money Follows the Person Technical Assistance Center, Client Assistance Programs, and Protection and Advocacy Programs.

(f) Serving as a national resource center related to community living policy by:

(i) Providing information and technical assistance to service providers, individuals with disabilities and their representatives, and other key stakeholders; and

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers, rehabilitation research personnel, and other disability service providers, to facilitate more effective delivery of services to individuals with disabilities.

This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

#### Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on

the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

#### Executive Orders 12866 and 13563

#### Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive

Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and

definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired



behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits,

both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. The new RRTC will generate and promote the use of new knowledge that will improve outcomes for individuals with disabilities in the area of community living and participation.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: July 15, 2013.

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Michael K. Yudin,  
Delegated the authority  
to perform the functions  
and the duties of the  
Assistant Secretary for  
Special Education and  
Rehabilitative Services.

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